

REMARKS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance or into better condition for appeal.

This invention provides for, *inter alia*, liquid formulation of insecticides in the form of oil-in-water emulsion comprising film forming agents and/or thickeners and specific emulsifier system containing one or more anionic surfactants and two or more non ionic surfactants. The inventive formulation, which provides for a specific combination of emulsifier system and film forming agents/thickeners, exhibits good stability.

While not controlling, Applicants would like to point out that the corresponding European application has been granted.

Since Applicants filed a Notice of Appeal and a petition for an extension of time on June 4, 2004, it is believed that no further fee is required for the consideration of this Amendment. The Commissioner is authorized to charge any additional fee for consideration of this paper or credit any overpayment in such fees, to Deposit Account No. 50-0320.

Claims 1-14 are pending in the application. Applicants cancel the non-elected claims 7-12 without prejudice, admission, surrender of subject matter or intention of creating estoppel as to equivalents. Applicants reserve the right to file a divisional application to any of the cancelled subject matter

Applicants thank the Examiner for removing the rejections pursuant to 35 U.S.C. §112 and §103(a).

Claims 1-6, 13 and 14 are rejected under 35 U.S.C. 102(b) as being allegedly anticipated by Audegond et al. (US. 5,435,992, "Audegond") and by Henriet et al. (WO 96/01047, "Henriet"). Since neither Audegond nor Henriet teaches liquid formulation of insecticides

comprising a combination of film forming agent/thickener with an emulsifier system containing one or more anionic surfactants and two or more nonionic surfactants, these prior publications cannot anticipate the present claims and the withdrawal of the rejection is requested. Further support for this position is that the European Patent Office has allowed the corresponding European patent in view of the fact that the International Preliminary Examination Report cites these publications.

The Office Action states that Audebon , which in contrast to the present invention, teaches emulsifiable concentrate that contains “a) deltamethrin b) Emulsogen El-fatty acid c) Ca phenyl sulfonate—an anionic surfactant, and ARKOPALNOYO—a monionic surfactants mixture, inclusive of HLBs of 4-12, 12-20, d) cotton oil and e) water” (Example 1). (Office Action at 2). However, in contrast to the present invention, Audebon does not teach liquid formulation containing film forming agents/thickeners in combination with an emulsifier system containing one or more anionic surfactant and two or more non ionic surfactants. Hence, Audebon cannot anticipate the present claims.


The Office Action states that Heriet teaches a composition containing the pyrethroid, carboxylic acid ester, emulsifier system and a film former. Moreover, the Office Action states that liquid formulation according to Heriet can be further diluted in water in order to form oil in water emulsions. In contrast, the present invention teaches liquid formulation wherein water is a mandatory component from the beginning. Moreover, Heriet does not teach an emulsifier system comprising one or more anionic surfactants and two or more non ionic surfactants wherein one of which has a HLB value between 4 and 12 and one of which has a HLB value between 12 and 20, or provide any motivation to include such a system. Hence, Henriet cannot anticipate the present invention.

As neither Henriet nor Audegond teach and enable each and every element of the instant invention, the rejection must fail as a matter of law.

In view of the foregoing, reconsideration and withdrawal of the Section 102 are respectfully requested. Favorable action is earnestly solicited.

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